

ORDINANCE _____

AN ORDINANCE relating to indigent public defense services; authorizing contracts for primary and secondary defender services; amending Ordinance 122602; ratifying and confirming prior acts; and, declaring an emergency to provide for the continuation of essential services immediately following the expiration of current contracts for indigent defense services.

WHEREAS, the City of Seattle, consistent with its constitutional requirements, Chapter 10.101 RCW and sound public policy has provided that each person charged with a crime punishable by incarceration or involved in certain other proceedings that may result in loss of liberty or loss of fundamental rights, be provided with effective legal representation in order to ensure equal justice under law without regard to a person's ability to pay; and

WHEREAS, the City is guided by standards for providing indigent public defense services from recommendations of the American Bar Association's (ABA's) 10 Principles of a Public Defense Delivery System and Chapter 10.101 RCW; and

WHEREAS, the City has in the past and continues to audit performance of public defense service providers; and

WHEREAS, the provision of indigent public defense services by nonprofit service providers helps ensure a client focus by those entrusted with representing indigent persons; and

WHEREAS, the City Council and Mayor desire Seattle's public defense program be representative of the community it serves; and

WHEREAS, pursuant to Ordinance 122602, the City set out standards for Indigent Public Defense Services and established contractual requirements for agreements between the City and public defense service providers; and

WHEREAS, following review of agency caseloads, the City Council by Ordinance 123454, removed the requirement that a third provider provide a minimum of one full-time equivalent attorney; and

WHEREAS, current contracts for Indigent Public Defense Legal Services expire on June 30, 2011; and

WHEREAS, consistent with Ordinance 122602, the City issued its request for proposals ("RFP") on February 16, 2011; and

WHEREAS, the RFP requested proposals for a primary provider; a secondary provider to handle conflict cases and other cases as may be assigned by the contract administrator; and, a

1 third provider to represent defendants in cases in which both the primary and secondary
2 providers have a conflict of interest; and

3 WHEREAS, responses were received from Associated Counsel for the Accused (ACA) and from
4 Society of Counsel Representing Accused Persons (SCRAP) for primary or secondary
5 services; and, responses were received from The Defender Association (TDA) and from
6 Northwest Defenders Association (NDA) to provide secondary services only; and

7 WHEREAS, no proposals were submitted for the third defender scope of services, either in
8 response to the initial RFP or in response to an amended RFP (issued on April 6, 2011) to
9 specifically solicit a proposal for third defender services; and

10 WHEREAS, ACA, SCRAP, TDA and NDA are all Washington nonprofit corporations; and

11 WHEREAS, the City provided for an Indigent Public Defense Services Proposal Review Panel,
12 consistent with Ordinance 122602, to review the responses to the RFP; and

13 WHEREAS, the Review Panel recommended to the Executive, through the Budget Office, the
14 selection by the City of ACA as the primary provider and NDA as the secondary
15 provider; and

16 WHEREAS, in the absence of a third provider proposal, it is most efficient for the secondary
17 provider to administer the referral of cases in which both the primary and secondary
18 providers have a conflict of interest; and

19 WHEREAS, after receiving the Review Panel's recommendations, the Executive has selected the
20 providers for indigent public defense services and negotiated contracts with ACA and
21 NDA; and

22 WHEREAS, the Council has considered the recommendation of the Budget Office and the
23 Executive; finds the Executive has complied with the directives established in Ordinance
24 122602; and determines that the contracts with ACA and NDA are appropriate; and

25 WHEREAS, in accordance with RCW 10.101.040 the City had outside counsel, Foster Pepper
26 PLLC, review these contracts; and

WHEREAS, the contracts are consistent with the authorizations set forth in Ordinance 122602,
as subsequently amended and as modified herein; and

WHEREAS, the City having received no separate proposal to provide third provider services,
and based upon other experiences in administering indigent public defense service
contracts in the past, determines it appropriate to modify Ordinance 122602, as set forth
herein; and,

WHEREAS, there is a present and ongoing need to provide indigent public defense services after the June 30, 2011, expiration of current public defense service contracts; NOW
THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Primary Public Defense Contract. The Director of the City Budget Office is authorized to execute the contract substantially in the form of Exhibit 1 for primary public defense services negotiated with the Associated Counsel for the Accused (ACA) for the period of July 1, 2011 through June 30, 2014.

Section 2. Secondary Public Defense Contract. The Director of the City Budget Office is authorized to execute the contract substantially in the form of Exhibit 2 for secondary public defense services negotiated with Northwest Defenders Association (NDA) for the period of July 1, 2011 through June 30, 2014.

Section 3. Ordinance 122602, Section 5 Amended. Ordinance 122602, Section 5, is amended to read as follows:

Selecting service providers. After having received the panel's recommendations, the Mayor, ((Director of Executive Administration)) or as the Mayor may otherwise delegate, shall select providers for indigent public defense services ("providers"), and negotiate and, upon City Council approval as required by Section 10 of this ordinance, execute contracts with those providers.

Contract Administrator. The contract administrator for the contracts with providers authorized by this ordinance is the City of Seattle Public Defense Contract Administrator in the City Budget Office. Any modifications to performance under the contracts relating to indigent defense services; schedules and court calendars; attorney assignments and staffing; reporting and

1 records; and, such other matters regarding the administration of the contracts which can be made
2 within existing appropriation authority and consistent with the City's public defense standards is
3 delegated to the City Budget Office.

4 Section 4. Ordinance 122602, Section 7 Amended. Ordinance 122602, Section 7, is
5 amended to read as follows:

6 ~~((Three providers.))~~Minimum of two providers. The City shall enter into
7 contracts for indigent public defense services with ~~((three providers))~~ a minimum
8 of two providers: a primary provider; and, a secondary provider to handle conflict
9 cases and other cases as may be assigned by the contract administrator~~((; and a))~~.
10 A third provider contract may be authorized, but is not required, for a provider to
11 represent defendants in cases in which both the primary and secondary providers
12 have a conflict of interest.

13
14 Section 5. Ordinance 122602, Section 9.d. Amended. Ordinance 122602, Section 9.d. is
15 amended to read as follows:

16 **Contract requirements.** City contracts with providers for indigent public-defense
17 services must, among other things, meet the following requirements:

18 * * *

19 d. No contract shall exceed three years in duration, unless such contract is
20 extended by authorization set forth in the contract approved by the City Council.

21
22 Section 6. Ratification. Any act consistent with the authority taken after passage but
23 prior to the effective date of this ordinance is hereby ratified and confirmed.

1 Section 7. Emergency Declared – Effective Date. To provide for ongoing indigent
2 public defense services on and after July 1, 2011, an emergency is declared to exist under Seattle
3 City Charter Article IV, Subsection 1(I). It is necessary for the immediate preservation of the
4 public peace, health and safety that this ordinance takes effect without delay. This ordinance
5 shall become effective immediately upon its passage by a three-fourths vote of all of the
6 members of the City Council, and its approval by the Mayor, as provided by the Charter of the
7 City.

Passed by a three-fourths vote of all of the members of the City Council the ____ day of _____, 2011, and signed by me in open session in authentication of its passage this ____ day of _____, 2011.

President _____ of the City Council

Approved by me this ____ day of _____, 2011.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2011.

Monica Martinez Simmons, City Clerk

(Seal)

ATTACHMENTS:

Exhibit 1: Public Defense Services, Primary Defender, Associated Counsel for the Accused

Exhibit 2: Public Defense Services, Secondary Defender, Northwest Defender Association